vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.158 OF 2004
IN
SUMMARY SUIT NO.2532 OF 2000

M/s.Prashant Trading Company ... Plaintiff

V/s.

M/s.Swami Fashions P. Ltd. & Ors. ... Defendants

Ms.J.M. Sidhwa for Plaintiff
Mr.P.N. Gauwani for Defendants

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 24, 2006**

P.C.:

. The Notice of Motion has been filed by the plaintiff for a decree on admission of the Plaintiff's claim for an amount of Rs.10,22,996/-. It is submitted that the Defendants have admitted that this amount is payable to the Plaintiff in the balance sheet and profit and loss account for the year 1999-2000.

2. The Defendants, on the other hand, contend that the plaintiff was liable to pay an amount of Rs.13,75,440/- based on the transactions between the plaintiff and the Defendants and therefore, according to the defendants, they are not liable to pay any amount to the plaintiff at this stage by way of a decree on admission. The defendants had a DEPB licence which the plaintiff contracted to use against payment of certain amounts to the Defendants. The facilities available

under this licence were given by the Defendants to the plaintiff on payment of certain monies. The plaintiff in turn sold these facilities to a third party on which he made some profit.

3. In my view, it would be necessary to lead evidence in support of the plaintiff's claim. Reliance is placed by the learned Counsel for the plaintiff on the case of *Uttam Singh Dugal & Co. Ltd. v/s. Union Bank of India,* **AIR 2000 SC 2740** and the Defendant in the case of *Parivar Seva Sansthan v/s. Veena Kalra,* **AIR 2000 DELHI 349** in support of their submissions. In my view, the Defendants have not categorically admitted that the amount of Rs.10,22,996/- is payable to the Plaintiff and has in fact raised a dispute as regards the actual amount payable.

4. Motion dismissed accordingly.